

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

BOARD OF COUNTY COMMISSIONERS)
OF THE COUNTY OF CLEVELAND, *on*)
behalf of Cleveland County and all others) Civil Action No. CIV-12-569-F
similarly situated,)
)
Plaintiff,)
)
vs.)
)
MERSCORP, INC., et al.,)
)
Defendants.)
)

DEFENDANTS' NOTICE OF JURISDICTIONAL FACTS

On July 31, 2012, this Court directed the removing Defendants to provide additional information regarding the citizenship of defendant Bank of Oklahoma (incorrectly named in the petition as Bank of Oklahoma, N.A.). In response, the undersigned Defendants state that “Bank of Oklahoma, N.A.” is not a legal entity; rather, “Bank of Oklahoma” is a trade name under which BOKF, NA does business in the State of Oklahoma. (*See* Ex. 1, Trade Name Report). BOKF, NA is a national banking association with its main office located in Tulsa, Oklahoma. (*See* Ex. 2, Amended and Restated Articles of Association, p. 1).

This Court may take judicial notice of Exhibits 1 and 2 because they are public records filed with the Oklahoma Secretary of State and Office of the Comptroller of the Currency, respectively. *See e.g., Vista Exploration Co. v. Mewbourne Oil Co.*, No. CIV-10-213-C, No. 2010 WL 1980196, at *2 n.3 (W.D. Okla. May 17, 2010) (taking judicial

notice of certified public records kept by the Oklahoma Secretary of State); *United Food and Commercial Workers Union v. Chesapeake Energy Corp.*, No. CIV-09-1114-D, No. 2010 WL 3527596, at *1 n.4 (W.D. Okla. Sept. 2, 2010) (noting that “a court may take judicial notice of the contents of SEC filings which are a matter of public record”).

As this Court recognized in its July 31 Order, BOKF, NA (including when operating under its trade name Bank of Oklahoma) is a citizen of Oklahoma by virtue of being a national banking association with its main office in Oklahoma. *Wachovia Bank v. Schmidt*, 546 US. 303, 306-07 (2006). But, as Defendants have demonstrated in their Notice of Removal (Dkt. No. 1) and in their response to Plaintiffs’ Motion to Remand (Dkt. No. 38), BOKF was fraudulently joined so its citizenship should be disregarded for purposes of a diversity analysis. Alternatively, this Court should dismiss BOKF under Federal Rule of Civil Procedure 21 to perfect this Court’s diversity jurisdiction.

Dated: August 7, 2012

Respectfully Submitted,

/s/ S. Brent Bahner

S. Brent Bahner
Fischl, Culp, McMillin, Chaffin, Bahner
& Long, LLP
100 “E” St. S.W./P.O. Box 1766
Ardmore, OK 73402
Telephone: 580-223-4321
Facsimile 580-226-4795

*Attorney for MERSCORP, Inc. n/k/a
MERSCORP Holdings, Inc., Mortgage
Electronic Registration Systems, Inc.,*

/s/ Joel W. Harmon

Joe E. Edwards (OBA #2640)
joe.edwards@crowedunlevy.com
Joel W. Harmon (OBA #11332)
Joel.Harmon@crowedunlevy.com
Brandee L. Buening (OBA #22507)
brandee.bruening@crowedunlevy.com
Crowe & Dunlevy, A Professional
Corporation
20 North Broadway, Suite 1800
Oklahoma City, OK 73102
Telephone: 405.235.7700
Facsimile: 405.239-6651

Joseph F. Yenouskas
jyenouskas@goodwinprocter.com
Goodwin Procter LLP
901 New York Ave., NW
Washington, DC 20001
Telephone: (202) 346-4143

Attorneys for Bank of America, N.A.,

/s/ Joel W. Harmon

Joe. E. Edwards (OBA #2640)
joe.edwards@crowedunlevy.com
Joel W. Harmon (OBA #11332)
Joel.Harmon@crowedunlevy.com
Brandee L. Buening (OBA #22507)
brandee.bruening@crowedunlevy.com
Crowe & Dunlevy, A Professional
Corporation
20 North Broadway, Suite 1800
Oklahoma City, Oklahoma 73102
Telephone: 405.235.7700
Facsimile: 405.239-6651

Mary Beth Hogan, Esq.
Dino L. LaVerghetta, Esq.
Debevoise & Plimpton LLP
919 Third Ave.
New York, New York 10022
Telephone (212) 909-6996
mbhogan@debevoise.com
dllaverg@debevoise.com

*Attorney for JPMorgan Chase Bank,
N.A.*

/s/ P. Russell Perdew

P. Russell Perdew (*pro hac vice*)

Locke Lord LLP

111 South Wacker Drive

Chicago, Illinois 60606

Telephone 312-443-1712

Facsimile 312-896-6712

rperdew@lockelord.com

S. Brent Bahner

Fischl, Culp, McMillin, Chaffin, Bahner
& Long, LLP

100 "E" St. S.W./P.O. Box 1766

Ardmore, OK 73402

Telephone: 580-223-4321

Facsimile 580-226-4795

Attorneys for U.S. Bank N.A.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Defendants' Notice of Jurisdictional Facts and attachments have been served upon the plaintiff, Board of County Commissioners of the County of Cleveland, this 7th day of August, 2012, via all counsel of record registered with the Court's CM/ECF system.

/s/ P. Russell Perdew